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OFFICE OF PETITIONS

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In re Application of :
Christophe Dauga et al. :
Application No. 10/069,402 :
Filed: December 9, 2002 :
Attorney Docket No. 012237-0290736 :

ON PETITION

This is a decision on the petition filed March 20, 2006 to withdraw the holding of abandonment which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181 is **GRANTED**.

This application became abandoned November 23, 2005 for failure to file a timely response to the non-Final Office Action mailed August 22, 2005. Accordingly, a Notice of Abandonment was mailed March 7, 2006.

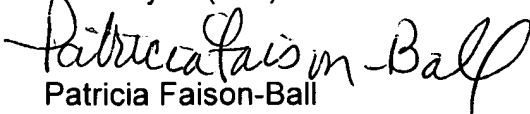
Petitioner claims that the Office Action mailed August 22, 2005 was never received and that in spite of an address change, the Office Action was mailed to an incorrect address. Petitioner submits as proof of their assertion, a copy of the address change and a copy of their docket records to show that the office action was mailed to an incorrect address.

A review of the file reveals that petitioners are in fact correct. A copy of the address change previously filed includes a USPTO date stamp of May 8, 2003. The address change was obviously acknowledged but the address information was not updated by the USPTO prior to the mailing of the non-Final Office Action on August 22, 2005. Furthermore, as further proof of non-receipt, both the Office Action and the Notice of Abandonment were returned to the USPTO as undeliverable. Thus, the non-Final Office Action was mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due and none have been charged.

The Notice of Abandonment is withdrawn and the file is being forwarded to Technology Center 3715 for the re-mailing of the non-Final Office Action originally mailed on August 22, 2005. Telephone inquiries concerning the re-mailing of the Office Action should be referred to the Technology Center. All other inquiries regarding this decision may be directed to the undersigned Petitions Attorney at (571) 272-3212.

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